

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 08-29-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening for dates of service 06-09-03 through 06-23-03 and the office visit date of service 06-20-03 were found to be medically necessary. The work hardening for dates of service after 06-23-03 and team conferences from 06-09-03 through 07-16-03 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 3rd day of February 2004.

Debra L. Hewitt
Medical dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 06-09-03 through 06-23-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 3rd day of February 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Amended Letter
Note: Decision

November 19, 2003

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-0030-01
IRO Certificate #: IRO 4326

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient was working as a plumber on ___ when he sustained an injury to the lumbar spine. He saw a chiropractor for treatment and therapy. An MRI dated 02/27/03 revealed a disc herniation at L4-5 without impingement and a small bulge at L5-S1. The patient has under gone three weeks of a work hardening program.

Requested Service(s)

Work hardening, office visit, and team conference from 06/09/03 through 07/16/03

Decision

It is determined that the work hardening sessions from 06/09/03 through 06/23/03 and the office visit on 06/20/03 were medically necessary to treat this patient's condition. However, the work hardening sessions after 06/23/03 and team conferences from 06/09/03 through 07/16/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

A lumbar strength test performed 03/10/03 revealed that the patient could exert an average force of 4.3 pounds in extension and 9.2 pounds in flexion. A 05/07/03 lumbar strength test revealed an average of 9.0 pounds in extension and 9.7 pounds in flexion. The patient's job required him to function at the heavy physical demand level. The patient began a work hardening program on 06/09/03.

A review of the progress notes revealed no change in the treatment plan in terms of the amount of weight lifted or number of sets performed over the entire course of treatment. The performance level noted on 06/09/03 was the same performance level noted at the end of the program in July of 2003. In light of the lack of change in intensity of the work hardening program, the treatments after 06/23/03 were not medically indicated. Beissner et al conducted a study to identify factors that predict successful work hardening outcomes. Two measures of success were used: return to work and case closure (i.e., resolution of medical treatment issues). Persons with spine-related injuries who completed a work hardening program were the subjects. The authors found that three months after program completion, 68% of the subjects had returned to work and 86% had successful case closure. Twelve months after the program completion, 77% of the subjects had returned to work and 90% had successful case closure. The more treatment subjects received prior to entering the program, the less likely there were to be working or achieving case closure following treatment. Subjects' work status and initial time off of work were factors predicting early return to work, but not 12 months after program completion. (Beissner KL, Sanders RL, McManis BG. "Factors related to successful work hardening outcomes", Phys Ther 1996 Nov;76(11):1188-201). Therefore, it is determined that the work hardening sessions from 06/09/03 through 06/23/03 and the office visit on 06/20/03 were medically necessary. However, the work hardening sessions after 06/23/03 and team conferences from 06/09/03 through 07/16/03 were not medically necessary.

Sincerely,